IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Crl. Revn. No. 2175 of 2006

DATE OF DECISION : 16.01.2007

Husan Lal @ Husan Singh @ Hussain

.... PETITIONER

Versus

State of Haryana

..... RESPONDENT

CORAM :- HON'BLE MR. JUSTICE SATISH KUMAR MITTAL

Present: Mr. Subhash Ahuja, Advocate, for the petitioner.

Mr. Partap Singh, Senior DAG, Haryana.

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Petitioner Husan Lal alias Husan Singh alias Hussain has filed this revision petition against the judgment dated 5.10.2006, passed by Sessions Judge, Kaithal, whereby the appeal filed by him against the judgment of his conviction dated 26.4.2004 and order of sentence dated 27.4.2004, passed by Judicial Magistrate Ist Class, Kaithal, has been dismissed.

2. The petitioner was tried in case FIR No. 69 dated 12.3.2006 under Sections 279, 337, 338, 304-A IPC, registered at Police Station Pundri and vide judgment and order dated 26.4.2004/27.4.2004, passed by the trial court, he was convicted and sentenced to undergo R.I. for a period of six months and to pay a fine of Rs. 500/- and in default of payment of fine to further undergo R.I. for one month under Section 279 IPC; to undergo R.I. for a period of six months and to pay a fine of Rs. 500/- and in default of payment of fine to further undergo R.I. for one month under Section 337 IPC and to undergo R.I. for a period of two years and to pay a fine of Rs. 2,000/- and in default of payment of fine to further undergo R.I. for two months under Section 304-A IPC. All the sentences were ordered to run concurrently. Aggrieved against the same, the petitioner filed appeal,

which has been dismissed by the appellate court. Hence, this revision petition has been filed by the petitioner.

3. I have heard counsel for the parties and gone through the impugned judgment.

4. The allegation against the petitioner is that on 11.3.1996, he was driving a Swaraj Majda bearing registration No. HR-37-3859 in a rash and negligent manner and at about 7.15 P.M., near bridge of Mundri Canal, on the turning point, he could not control his vehicle and it hit against the east-southern corner of the bridge, due to which the wind screen of the vehicle was broken and the vehicle turned turtle into the canal and three persons sitting in the aforesaid Swaraj Majda died, whereas three other persons sitting therein suffered injuries. In order to prove its case, the prosecution examined 24 witnesses. The trial court, after appreciating the evidence available on record, convicted and sentenced the petitioner under Sections 279, 337 and 304-A IPC. The appellate court has also upheld the conviction and sentence of the petitioner.

5. On October 27, 2006, Counsel for the petitioner could not point out any illegality or infirmity in the conviction recorded by the courts below and notice of motion was issued only regarding quantum of sentence.

6. Regarding quantum of sentence, counsel for the petitioner submits that the petitioner is a poor married person having two small daughters. He is first offender and the only bread earner of the family. The incident is about 11 years old and the petitioner has already faced the agony of 8 years of trial. Counsel further submitted that the accident took place not due to any negligence of the petitioner, but due to error of decision while driving the vehicle. In the accident, he also suffered multiple grievous injuries. In view of these facts, counsel for the petitioner has submitted that a lenient view be taken against the petitioner regarding the quantum of sentence.

5. In view of the above, conviction of the petitioner recorded by both the courts below is upheld. However, keeping in view the facts that the

petitioner, who is the only bread earner of his family, consisting of his wife and two daughters, is the first offender and has faced the agony of trial for eight years and the incident is more than eleven years old, I deem it appropriate to reduce the sentence of imprisonment from two years under Section 304-A IPC to one year as that will meet the ends of justice. Ordered accordingly. It is made clear that the sentence of imprisonment under Sections 279 and 337 IPC and the sentence of fine shall remain intact.

6. With the aforesaid modification in the order of sentence, this revision petition stands dismissed.

January 16, 2007 **(SATISH KUMAR MITTAL)**
ndj **JUDGE**